

The 19th November, 1987

No. 9/3/87-6Lab./8720.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the Workman and the management of M/S Alcozin India (P) Ltd; Plot No. 16, Sector 4, Ballabgarh.

IN THE COURT OF SHRI A.S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

reference No. 745 of

Between

SHRI S.S. NAGAR, WORKMAN AND THE MANAGEMENT OF M/S ALCOZIN INDIA (P) LTD.
PLOT NO. 16, SECTOR-4, BALLABGARH

Shri Manohar Lal, for the workman.

Shri R.C. Sharma, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the service matter between the workman Shri S.S. Nagar and the management of M/s. Alcozin India (P) Ltd., Plot No. 16, Sector-4, Ballabgarh, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 48085—90, dated 28th November, 1985.

2. The claim made by Shri S.S. Nagar is that he was employed by the respondent-management in July 1979 and his services were illegally terminated on 24th May, 1983. His grievance is that this act of the management is void, unjustified and against the principles of natural justice and that he be reinstated into his job with continuity of service and further with full back wages.

3. On notice the management filed written statement and has come forward to admit that he was employed on 1st July, 1979 as a Millingman and his monthly wages were Rs. 680. So far as order of termination is concerned about the same it has been submitted that it is a small scale concern only and there was little or no work for the Millingman and seniority list was displayed on the notice board on 9th May, 1983 and then retrenchment notice was issued on 24th May, 1983 and the bank draft of Rs. 1681.00 was also tendered but that was not accepted by Shri Nagar and then the management had to despatch the same to him by way of post but to that also was received back undelivered. It has further been claimed that form 'P' was submitted to the Government about the said retrenchment which on the face of it is legal, proper and justified. It is rather alleged that claim of Shri Nagar is misconceived and incorrect also and he has no cause of action. Preliminary objection has also been taken to the effect that his claim has already been rejected by the Haryana Government,—vide its letters dated 18th November, 1983, 24th February, 1984, 9th April, 1984 and 30th October, 1985 and despite of the same reference has again been made to the Labour Court without issuing any notice to the management and on the face of it the said reference is bad one since it is against the principles of natural justice. By way of replication Shri Nagar repeated his claim as well as allegations also.

4. On the pleadings of the parties, my learned Predecessor had framed the following material issues on 1st April, 1986:—

1. Whether the reference is bad?
2. As per reference.
3. Whether the workman is gainfully employed?

5. In support of termination order on behalf of the management Shri S.K. Joshi, Manager has appeared. He has relied and produced some documents also. In the same manner workman Shri Sher Singh Nagar has also appeared and produced some documents. I have heard Shri Manohar Lal on behalf of the workman and Shri R.C. Sharma, for the respondent. I have further gone through the case file also. My finding on the said issues are as below:—

Issue No. 1

6. On preliminary reading of the case file the reference had appeared to be a bad one but scale has inclined in favour of the workman since reference number 39 of 1982 was answered in his favour,—vide award dated 1st May, 1982 by Shri Hari Singh Kaushik, the then learned Presiding Officer, Labour Court, Faridabad. It is a

matter of regret that this award has been treated as a waste paper by the respondent-management as well as by the Labour Department also. There is no doubt that demand notice dated 1st June, 1983 was declined on 18th November, 1983,—vide Ex. M-18 and in the same manner demand notice 30th November, 1983 was declined on 24th February, 1984,—vide Ex. M-19, further matter was rejected on 9th April, 1984,—vide Ex. M-20 and fourth rejection letter is dated 31st October, 1985,—vide Ex. M-21. The present reference is of November, 1985 and that appears to be the result of 5th attempt made by this workman. Had there been no award in reference number 39 of 1982 then this workman had no case at all. It appears that this reference of 1982 decided in favour of the workman was not at all considered by the Labour Department and due to that all his previous demand notices had to be rejected. Now, there has been a change in the past trend of rejecting the references as being bad one in case previous demand notice was rejected by the Government. During these days there has been sympathetic consideration for the workers and the Government is expected to make the reference to the Courts for final adjudication of the service matters. In view of this discussion, I do not find any illegality committed by the Labour Department in making the reference to the Labour Court. This issue is decided against the management.

Issue No. 2

7. I propose to deal with this issue by referring the reference number 39 of 1982 decided in favour of the workman,—vide Ex. W-2. It is an important document in favour of this workman. In that case it was the respondent management who had conceded on 30th April, 1984 to reinstate the workman and further to make the payment of Rs. 1000 as compensation and accordingly award was passed. Copies thereof were forwarded to the Government for publication and there is no doubt that in compliance with the said award he was reinstated. Now, let us see the value attached by the management to this award. In my opinion, it was treated as a waste paper and the management without any loss of time proceeded to process the requirement of Section 25 F of the Industrial Disputes Act, 1947. His services were terminated,—vide Ex. M-3 and draft of Rs. 1681-00 was tendered to him,—vide Ex. M-4 and so on and form 'P' Ex. M-8 was also submitted to the Government. It is very shocking state of affairs where award already passed against the management has been totally rejected. In case, such a process is allowed to continue then not a single worker would be safe and all would be sacked by the management. Any how, there is fight between poor and rich, weak and healthy, old and young and under these prevailing circumstances in our Society we must be at guards and every possible step must be taken to safe guard the interest of working society. This order is a clear violation of award already passed in favour of the workman and the procedure adopted by the management appears to be a mischievous one. In view of this discussion this issue is hereby decided against the management and in favour of the workman.

Issue No. 3

8. This issue was not referred during the course of arguments and as such the same is answered accordingly.

9. As a result of the above discussion, I accept the reference and set aside the order of termination passed by the management and make it clear that this workman continues in service in execution of the award dated 1st May, 1982 in reference number 39 of 1982 and present award must also be read in the same sense and spirit. He will have to be treated as being in continuous service and the management must pay his full back wages at Rs. 700 p.m. w.e.f. 24th November, 1983. I may also make it clear that Labour Department would not direct him to knock the door of the Labour Court for the computation of his back wages. This case is of unusual nature where the management has showed least respect for the Labour Court award and as such, I burden the management with the cost of Rs. 1000 payable to the workman.

The 12th October, 1987.

A.S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1830, dated 19th October, 1987

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

A.S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.